

Research Excerpt:

2022 Legal, Compliance and Privacy Hot Spots

Gartner for Legal & Compliance Leaders

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Objective

Our Legal, Compliance and Privacy Risk Hot Spots identifies the key trends driving risk and work that legal leaders should anticipate during the next 24 months. The report can be used for:



Assessing Future Demands

Compare current capabilities and structure against the trends driving future legal, compliance and privacy demands.



Board and Executive Education

Educate the audit committee or full board on trends affecting your business with material legal, compliance and privacy implications that will impact oversight responsibilities and company performance.



Legal, Compliance and Privacy Strategic Plans

Guide team discussions, develop 2022 plans and allocate resources to the most significant risks.



Assessing Key Risks

Uncover areas of increasing risk exposure and as an input into legal, compliance and privacy risk assessments.

Executive Summary

To help legal leaders understand the current risk environment, we've identified the 13 trends featured in this report as "hot spots" that will create or exacerbate legal, compliance and privacy risk. We believe these hot spots will warrant your attention in the coming years. Our report focuses on the implications of these trends in 2022 and

the action items leaders will need to take to better prepare legal, compliance and privacy functions to respond. While individual hot spots may affect some industries or markets more or less significantly, all apply broadly across industries, geographies and corporate operating models. Four major themes underlie these hot spots:

- 1. Evolving Societal Expectations:** A new set of expectations is rapidly developing for the roles of businesses and other organizations in society. New, converging expectations of key stakeholders — including employees, investors, regulators and consumers — are pushing organizations to take social stances and consider long-term stakeholder well-being in strategic planning.

Hot spots include: Growing Stakeholder Demands for Corporate Purpose, Increasingly Defined Climate Expectations, and More Rigorous Supply Chain Oversight.

- 2. The New Employee-Employer Relationship:** Organizations face complex decisions regarding workforce management. Organizations must consider not just how and where work gets done, but what keeps employees productive, engaged and safe within the broader culture of the organization. Legal, compliance and privacy have a role to play in putting the policies, processes and practices in place that balance employee needs and expectations with the long-term mission and values of the organization.

Hot spots include: Emergence of New Employee Value Proposition, New-in-Kind Employee Monitoring, Rise of Governmental Vaccine Directives, and Significant Legal Attrition Risk.

- 3. Geopolitical Competition and Corporate Disruptions:** A growing mismatch between what publics expect and what governments deliver is driving tension within societies. This widening gap portends more political volatility and more country-specific approaches to economic and regulatory governance. At the same time, accelerating technology change, digital interconnection, climate change, and continued pandemic-driven volatility suggest the potential for significant and persistent disruptions to corporate operations. Companies must prepare for a world of more political, legal, environmental and criminal disruption.

Hot spots include: Rise of Regulatory Blocks, Increasing Value of Corporate Resilience, and Proliferation of Ransomware as a Business Continuity Risk.

- 4. New Frontiers of Technology Regulation:** The legal and regulatory system is adapting to a corporate landscape driven by data, platforms and autonomous decision making. Regulators and courts are putting in place rules that will govern competition, AI use, and the use and housing of personal information. These laws and regulations will reshape corporate action today and define the shape of markets in the future.

Hot spots include: Increasing Oversight of Corporate Competition, Expanding Data Localization Requirements, and Increasing Importance of Privacy UX.

Hot Spots Summary

| Category | Hot Spot | Implications |
|---|---|--|
| Evolving Societal Expectations | Growing Stakeholder Demands for Corporate Purpose | <ul style="list-style-type: none"> • Need to integrate corporate purpose into strategic planning • Need for enhanced board oversight • Importance of corporate narrative • More time on third-party negotiations |
| | Increasingly Defined Climate Expectations | <ul style="list-style-type: none"> • Climate as a strategic consideration • Increased need for investment-grade sustainability reporting • Future-proof corporate investments against potential regulations |
| | More Rigorous Supply Chain Oversight | <ul style="list-style-type: none"> • Need for substantive due diligence at scale • Adding “teeth” to supplier management • Need network for greater supply chain validation • Greater support for key suppliers that are small |
| The New Employee-Employer Relationship | Emergence of New Employee Value Proposition | <ul style="list-style-type: none"> • Manage legal implications of the human deal • Reinforce integrity in a hybrid environment • Adapt legal and compliance workflows for a hybrid environment |
| | New-in-Kind Employee Monitoring | <ul style="list-style-type: none"> • Need to expand privacy training • Focus monitoring on desired outcomes • Ensure employee trust and transparency • Consider employee monitoring equity |
| | Rise of Governmental Vaccine Directives | <ul style="list-style-type: none"> • Need for operational contingency plans • Need for vaccination tracking capabilities • Potential for heightened cultural rifts • Exacerbated work shortages |
| | Significant Legal Attrition Risk | <ul style="list-style-type: none"> • Rethink drivers of employee engagement • Reposition the legal and compliance EVP • Build disruption resilience |

Hot Spots Summary

| Category | Hot Spot | Implications |
|---|---|---|
| Geopolitical Competition and Corporate Disruptions | Rise of Regulatory Blocks | <ul style="list-style-type: none"> • Increased cost and complexity of regulatory compliance • More important relationships with local regulators and business partners • Regionalization of supply chains |
| | Increasing Value of Corporate Resilience | <ul style="list-style-type: none"> • Definition and adoption of resilience • Need to stress-test business continuity management processes • Develop decision principles to guide risk taking • Greater importance of cross-functional risk coordination |
| | Proliferation of Ransomware as a Business Continuity Risk | <ul style="list-style-type: none"> • Government presence in attack prevention and response • Incorporation of ransomware threats into crisis management • Increased investments to prevent ransomware attacks • Mitigating the impact of inevitable attacks |
| New Frontiers of Technology Regulation | Increasing Oversight of Corporate Competition | <ul style="list-style-type: none"> • Assess business strategy for competition concerns • Increased merger scrutiny and time to deal close • Need for enhanced AI governance |
| | Expanding Data Localization Requirements | <ul style="list-style-type: none"> • Increased importance of data mapping • New requirements for assessing transfer risk • Balance compliance risks against operational costs • Marginal costs of data storage will increase |
| | Increasing Importance of Privacy UX | <ul style="list-style-type: none"> • Prepare for more subject rights requests • Consider centralizing data management • Stay competitive through UX • Make a business case for enhanced consumer control |

Research Excerpt:

The New Employee- Employer Relationship

The New Employee-Employer Relationship

| Category | Hot Spot | Implications |
|--|---|--|
| The New Employee-Employer Relationship | Emergence of New Employee Value Proposition | <ul style="list-style-type: none">• Manage legal implications of the human deal• Reinforce integrity in a hybrid environment• Adapt legal and compliance workflows for a hybrid environment |
| | New-in-Kind Employee Monitoring | <ul style="list-style-type: none">• Need to expand privacy training• Focus monitoring on desired outcomes• Ensure employee trust and transparency• Consider employee monitoring equity |
| | Rise of Governmental Vaccine Directives | <ul style="list-style-type: none">• Need for operational contingency plans• Need for vaccination tracking capabilities• Potential for heightened cultural rifts• Exacerbated work shortages |
| | Significant Legal Attrition Risk | <ul style="list-style-type: none">• Rethink drivers of employee engagement• Reposition the legal and compliance EVP• Build disruption resilience |

Emergence of New Employee Value Proposition

The past 18 months have resulted in a dramatic shift in how work gets done and employee expectations. Today, 73% and 72% of white-collar employees want flexibility in where and when they work, respectively. Overall, 82% of employees say it's important their organizations see them as a person.¹

In response, companies are reinventing their employee value propositions to focus on their employees as whole individuals — what we call the “human deal.” This means more focus on employee well-being, flexibility, growth, connections and shared organizational purpose. Currently, 61% of organizations have adopted at least three tenets of the human deal in an effort to reshape their employee value proposition.² When organizations make progress in any part of the human deal, they see clear benefits. Organizations that offer radical flexibility³ to employees see a 40% increase in high performers.⁴

For legal and compliance, the human deal means creating the employee policies, procedures, guidelines and culture that support this changed environment. Legal and compliance must balance the concepts of fairness, flexibility and growth while operating in a rapidly changing environment for labor and employment law.

Drivers

- **Corporate Experience of COVID-19:** COVID-19 demonstrated to employees and managers that work can be done in different ways (e.g., in different locations, schedules, contexts), creating an expectation for flexibility.
- **Employee-Friendly Job Market:** A tight labor market with greater opportunities gives employees the power to make more demands of management.
- **Changing Workforce Priorities:** Employee prioritization of professional flexibility, personal connection to the workplace and work-life integration is forcing organizations to make flexibility a mainstay in the workplace.

Source: Gartner

The Human Deal Framework



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Emergence of New Employee Value Proposition

Legal, Compliance and Privacy Implications

Manage Legal Implications of the Human Deal

- Legal and compliance must partner with HR to build the employment policies, procedures and practices that undergird the human deal while managing tensions in concepts such as equality, flexibility and shared purpose.
- Legal must actively monitor the regulatory landscape to understand local interpretation of discrimination, accommodations, wage and hour practices, and other rapidly evolving domains.
- Prepare for potential increase in labor and employment litigation⁵ in the face of COVID-19-related directives and perceived or actual inequities in employment conditions.

Adapt Legal and Compliance Workflows for a Hybrid Environment

- Legal and compliance departments must evaluate the impact of long-term hybrid work on department processes, risk visibility and client relationships.
- Legal and compliance teams will need digitally adept talent to redesign workflows in a way that meets the disparate needs of hybrid and in-person employees.



Impacted Risk Areas

Compliance Culture, Labor and Employment Risk, Talent and Attrition Risk

Reinforce Integrity in a Hybrid Environment

- Thirty-five percent of compliance leaders say hybrid work environments have made peer and manager signals more distant and less effective (e.g., remote employees may not be able to observe and emulate how a peer responds to receiving a gift from a client).⁶
- Organizations must supplement peer and manager compliance signals (e.g., through embedded controls or culture messaging), particularly for newly hired remote employees who have never been inculcated with the organization's culture.

Emergence of New Employee Value Proposition

Action Steps

- Work with compliance leaders to develop new resources or initiatives to supplement existing peer and manager compliance signals (e.g., embedded controls or new cultural messaging campaigns).
- Recognize that corporate posture toward DEI, ESG and CSR may impact employees' sense of shared purpose, which likewise impacts their willingness to speak up and report misconduct.
- Review established and new policies, procedures and benefits to ensure they support the human deal while minimizing inconsistencies that create legal risk.
- Conduct an informal technology audit to determine which client-facing workflows have underperformed in the remote environment and identify new workflow investments.
- Engage with labor and employment law specialists to better understand the emerging risks associated with the human deal.

Key Risk Indicators

- Number of allegations of ethical misconduct per 1,000 employees before and after the shift to hybrid work
- Number of allegations related to exclusion or discrimination per 1,000 employees
- Employee sentiment, turnover and other signs of a healthy culture
- Industry litigation trends

Questions for Key Stakeholders

Ask HR

- Do remote and in-person employees have the same opportunities for work flexibility?
- Do our policies, benefits and practices (e.g., recruiting, hiring, support groups) support the evolving employee value proposition?

Ask compliance

- Have we seen changes in investigations, employee willingness to speak up or the overall culture of integrity?
- Have we seen an uptick in reported compliance violations?

Ask function heads

- Does your function have the appropriate compliance monitoring standards in place?
- Which compliance signals do leaders in your function emulate for employees to follow?
- Under what circumstances are individual requests for flexibility granted or denied?

New-in-Kind Employee Monitoring

While companies have been enhancing their employee monitoring efforts over the past several years, COVID-19 greatly accelerated this trend. Employee health, engagement and performance concerns in a hybrid work environment have made employee monitoring a necessity, resulting in not only more employee data being collected but also new, possibly more intrusive types of employee monitoring.

The endemic nature of COVID-19 is leading employers to monitor employee vaccinations. In the wake of the U.S. White House announcement on 9 September, 46% of employers indicate they will mandate vaccines for employees, a close to three-fold increase from August.¹ Managers' concern about remote employee performance and engagement is also rising, as

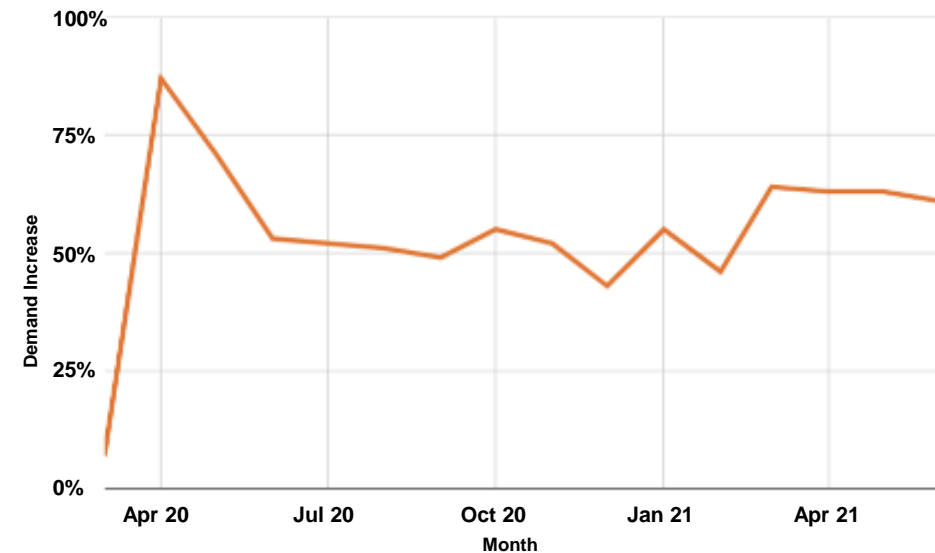
40% of managers say their need for talent analytics has increased post-COVID-19.² As a result, demand for employee monitoring software spiked in April 2020 and has remained consistently elevated since. The functionalities offered in these software suites include keystroke monitoring, screen monitoring, webcam surveillance, audio recording, location tracking, instant message monitoring and time tracking.³

Expanded employee monitoring may be a requirement in a hybrid world. However, poor employee data management, absence of purpose limitation and poor transparency harm employee trust and increase third-party, reputational and regulatory risks.

Drivers

- **Continued Public Health Concerns:** As COVID-19 becomes endemic, organizations will need to maintain employee health to ensure workforce safety and maintain employee comfort in the physical workplace.
- **Management Discomfort With Remote Work:** As more employers move to hybrid or virtual-first workplaces, managers are weary of greater difficulty in assessing employee sentiment, engagement and time management.
- **Rapid Digitization of Business:** Adoption of digital platforms into more aspects of the business increases the volume of employee records while also democratizing tools that allow analysis of those records.

Post-COVID Increase in Global Demand for Employee Monitoring Software



Source: Top10VPN

Note: From an analysis of over 200 search terms related to employee surveillance software. This study accounted for both generic and brand-specific queries for its study. The study compared searches during March through May of 2021 with internet searches the preceding year.

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New-in-Kind Employee Monitoring

Legal, Compliance and Privacy Implications

Need to Expand Privacy Training

- More managers throughout the organization are depending on employee data to assess performance, maintain public health and gauge employee sentiment in a hybrid work environment.
- As more and varied types of employee data are collected, privacy leaders must ensure access to this data is limited and data owners are properly trained on how to manage these new data assets.

Ensure Employee Trust and Transparency

- Only 17% of employees say their organization communicates the uses of its collected data to employees,⁴ yet employees who feel informed of the personal data their employer is collecting are 54% more willing to put in extra effort for the company.⁵
- Employers can bolster employee trust by ensuring clear and transparent communication with employees about which of their data is being collected and how it is being used.
- Privacy leaders should work with HR to ensure employees provide consent for atypical data collection, and work with stakeholders to offer alternatives to the types of monitoring with which employees are least comfortable.



Impacted Risk Areas

Privacy (notice; use, retention and disposal; security; collection), Legal (records management and retention), Labor and Employment (employee privacy protection, employment discrimination), Information Access (access/usage monitoring)

Focus Monitoring on Desired Outcomes

- Intensive use of email and instant messaging combined with new, built-in platform features such as voice transcription will expand employees' personal data footprints, increasing regulatory and information access risks and data storage costs.
- Privacy and legal leaders must work with business partners to ensure the business has a well-defined legitimate interest for collecting or processing employee data for new projects and reduce the enterprise's employee data footprint through deletion initiatives, prioritizing removal of high-cost, high-risk data.

Consider Employee Monitoring Equity

- Certain protected groups (e.g., women with childcare responsibilities, individuals with physical disabilities) may take advantage of remote work opportunities more often.
- Depending on employee monitoring to measure remote employee performance may result in unequal treatment for these groups, increasing risk of employment discrimination.
- Legal leaders must work with business partners to ensure equal performance measurement for remote and in-person workforces.

New-in-Kind Employee Monitoring

Action Steps

- Work with HR and managers to communicate with employees which data is being collected, why it is being collected, and how it will and will not be used.
- Administer enhanced training on purpose limitation, record retention and deletion policy, and employee data rights (e.g., to access their information and rectify incorrect information) to managers who are increasing their dependence on employee monitoring to measure performance, engagement and employee sentiment.
- Start a data deletion initiative by first calculating an ROI that includes both anticipated value and risk for stored employee data. Understand retention requirements, and prioritize deletion of high-risk, low-value assets as soon as legally possible.
- Embed questions related to legitimate use and purpose into processes that all new employee analytics projects must undergo (e.g., risk assessments, business case or project pitch decks).
- Work with HR partners to survey employees on level of comfort with types of employee personal data the enterprise is collecting. Seek employee consent for unexpected or atypical types of data collection, and provide alternatives for employees who are uncomfortable with, or who do not consent to, certain types of monitoring.

Key Risk Indicators

- Volume of employee personal information and tracking data, health data or other sensitive forms of data being collected and stored
- Volume of employee messaging
- Percentage of sensitive or personal employee data not protected by role or attribute-based permissions
- Percentage of employees consenting to expanded data collection
- Employee experience metrics: employee trust, attitudes on employee data collection, employee comfort with employee surveillance/sharing of health data
- Training metrics (e.g., number of trainings administered, post-training test scores)
- Number of different employee monitoring techniques (e.g., keystroke monitoring, webcam monitoring) in use

Questions for Key Stakeholders

Ask HR

- How can we assess the effects of our employee monitoring policies and activities on trust, engagement and other key performance metrics?
- How can we ensure performance monitoring does not disadvantage protected groups that may be more likely to take advantage of remote work opportunities?
- How do our methods of employee monitoring fit with our company's culture and values?

Ask business unit/functional leaders

- What types of employee data are being collected as a result of new hybrid or remote work arrangements?
- Which employee data is essential to your operations, and how could we identify and delete any high-risk, low-value employee data?

Ask IT/information security

- How could we implement automated deletions of sensitive or personal information?

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Rise of Governmental Vaccine Directives

The rise of government-backed vaccine directives pushes organizations to take stronger health and safety measures to protect against COVID-19.¹ A global mix of vaccine passport systems,² mandates³ and travel restrictions⁴ makes it difficult to track, monitor and respond to directives. In the United States, action on COVID-19 vaccines is headlined by President Biden's directive announced on 9 September 2021 that requires vaccination for staff of companies with 100 or more employees, or have staff undergo weekly tests for COVID-19.⁵ If it survives the legal challenges that have been raised, the directive is expected to cover 86 million employees in the U.S., and organizations will have to comply by 4 January 2022. In response to this directive, the percentage of companies requiring COVID-19 vaccines for employees nearly tripled — from 16% to 46%. Additionally, the number of executives willing to terminate employees who

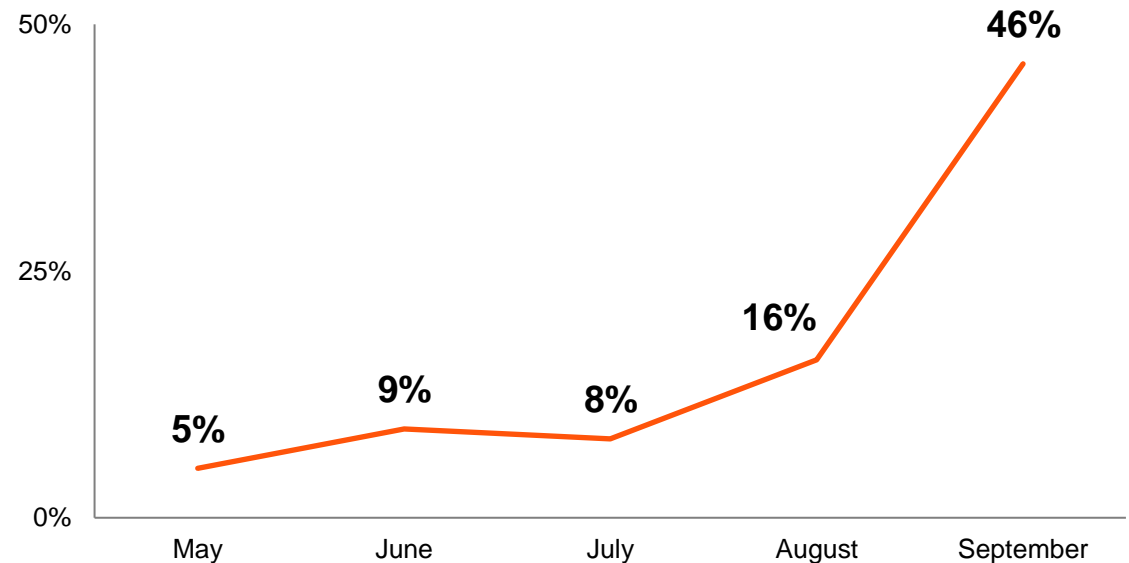
refuse to get vaccinated without a permitted exemption rose from 8% in August to 16% in September following President Biden's announcement.¹

Implementing vaccine directives creates significant operational questions, which may not have clear answers until governments issue further guidance.⁶ Further, the polarized cultural and political response to these directives creates fear of worker shortages in a tight labor market⁷ or competing local ordinances banning vaccine mandates.⁸ Until further guidance is given, organizations will need to make interim operational decisions and deliver them in a way that emphasizes respect for all employees, complies with country-specific directives and promotes a cohesive corporate culture.

Drivers

- **Approval of Vaccines by Regulatory Bodies:** Approval from bodies such as the United States Food and Drug Administration boosts confidence in vaccines and paves the way for vaccine directives.
- **State of the COVID-19 Pandemic:** Lingering infection rates and slowing vaccination rates are spurring global government action to curb the spread of COVID-19.
- **Increased Action From Private Sector:** Some companies have independently instituted their own vaccine directives for staff, creating momentum and indicating some level of support for government-driven directives.⁹

Companies Planning to Mandate Employee Vaccination



n = 63 (May), 214 (June), 38 (July), 199 (August), 272 (September)

Source: Gartner Webinar Polls¹⁰

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Rise of Governmental Vaccine Directives

Legal, Compliance and Privacy Implications

Need for Operational Contingency Plans

- Initial governmental directives may give directional guidance while not answering more granular operational questions until later (e.g., who pays for testing exempt staff). This creates uncertainty about how to implement them, which can be exacerbated by legal action against the directives and practical barriers such as vaccine availability in certain geographies.
- As organizations await definitive answers, they need to make interim decisions with a risk-based look toward the legal, cultural and operational implications of different policy options.

Potential for Heightened Cultural Rifts

- Mandatory medical decisions are unprecedented in many corporate cultures and may feel like a violation of individual rights to some employees, particularly in certain demographic groups. Fifty-four percent of executives are concerned about the impact a vaccine mandate would have on organizational culture and/or employee morale.¹
- Disparate rules (e.g., mask requirements only for certain employees) may make some employees feel alienated and detract from a cohesive corporate culture.

Need for Vaccination Tracking Capabilities

- Implementing vaccine directives requires a number of new operational capabilities, which may include: verifying vaccination status (internally or through a third party), tracking vaccination records, verifying religious and medical exemptions, making reasonable accommodations for exempt employees and developing a policy to govern in-person versus remote attendance.
- Legal, compliance and privacy leaders must ensure these new capabilities are adopted in a way that abides by employment law, safeguards employee privacy and doesn't strain corporate culture.

Exacerbated Work Shortages

- Amid the tight labor market and high attrition fears in organizations and their supply chains, 69% of executives say they are concerned with employee turnover due to termination/resignation of unvaccinated employees.¹
- Regardless of an organization's policy decisions, it must take care to deliver them in a way that makes staff feel respected and reasonably accommodated so as not to exacerbate potential attrition.



Impacted Risk Areas

Compliance Culture, Labor and Employment Risk

Rise of Governmental Vaccine Directives

Action Steps

- Maintain a list of ongoing operational questions related to vaccine directives as well as the legal and cultural implications of potential policy responses.
- Partner with your organization's COVID-19 response team to ensure any vaccine tracking steps they take comply with employment law and privacy requirements.
- Conduct an impact assessment to better understand how a vaccine mandate would impact attrition.
- If you update your vaccination policy, overinvest in communicating the reasons for your decision, any government directives influencing your decision and the steps you will take to respect and reasonably accommodate employees.

Key Risk Indicators

- Percentage of employees currently vaccinated against COVID-19
- Percentage of employees indicating they will not get vaccinated against COVID-19
- Percentage of employees indicating they will not disclose their vaccination status
- Percentage change in COVID-19 spread nationally

Questions for Key Stakeholders

Ask in-house counsel

- What vaccination or other COVID-19 safety directives are we currently subject to?
- What tracking do we have in place for future directives, and what directives are we expecting to see in the near term?
- How can we provide reasonable accommodations for the unvaccinated (e.g., how to define a reasonable exemption, how to effectively process them, how often to recertify)?

Ask HR

- What attitudes toward vaccine directives are represented in our workforce?
- What employee questions or conflicts have arisen in response to vaccine directives or COVID-19 issues more broadly?
- How much turnover could we expect in response to our available policy options regarding vaccination?

Ask your COVID-19 response team

- How do we plan to provide testing services to those who do not get vaccinated?
- How do we manage remote employees?
- How do we collect and secure employee health data, and for how long do we store it?
- How are we communicating the rationale behind vaccination policy updates to our employees?

Significant Legal Attrition Risk

Corporate attorneys are worn out. A combination of psychological stress and higher workloads have left 54% of lawyers exhausted. This is a significant drain on productivity; highly exhausted lawyers are 52% more likely to delay, scope down or kill projects. Highly exhausted lawyers also have a 51% higher intent to leave the department.¹ Lawyer exhaustion in the midst of the “Great Resignation”² risks heightened attrition, potentially exacerbating the existing exhaustion problem.

To address lawyer exhaustion, legal and compliance leaders should focus on increasing lawyer engagement. Highly engaged lawyers are 42% less likely to be exhausted than disengaged

lawyers, 43% more likely to show high discretionary effort and 70% more likely to explore novel ways to help reach business partner objectives.¹ Highly engaged lawyers also show a lower intent to leave the department. Unfortunately, only 26% of lawyers are highly engaged in their current role.¹

Without an engagement-focused change in the legal and compliance value proposition, departments are at risk of facing significant turnover and being unable to meet business needs.

Drivers

- **Multiplying Legal Disruptions:** Many disruptions have made lawyers’ jobs harder over the past two years, including the pandemic, economic volatility, border closings, strategic and operational changes, and social changes.
- **Flexible Work Makes Engagement a Management Priority:** Some attorneys may feel disconnected from their organization as a result of prolonged time working in hybrid or remote environments.
- **More Competition for Legal Talent:** Law firm hiring and an expanded legal services market provide in-house counsel lawyers more opportunity.^{3,4}

Impact of Lawyer Exhaustion and Engagement

54% of lawyers are
Exhausted



Exhausted lawyers:

- Are **52%** more likely to delay, scope down or kill projects
- Have a **51%** higher intent to leave the department



26% of lawyers are
Highly Engaged

Highly engaged lawyers:

- Are **42%** less likely to be exhausted
- Are **43%** more likely to show high discretionary effort*

Source: 2021 Gartner Corporate Lawyer Engagement Survey

* Compared to lawyers that are moderately engaged

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Significant Legal Attrition Risk

Legal, Compliance and Privacy Implications

Rethink Drivers of Employee Engagement

- Traditional drivers of engagement (e.g., potential for growth and work management) do not differentiate department performance in engagement.
- Our research¹ indicates the leading driver of engagement is actually providing lawyers with personally fulfilling work.

Reposition the Legal and Compliance EVP

- Legal departments that find it hard to engage and retain the required talent will need to alter the legal value proposition to focus on work in areas of interest, healthy business partner engagement and the ability to learn new skills.
- To put this into practice, legal departments must develop methods to assess lawyer motivators and interests and provide managers with this information to help managers operationalize this insight (e.g., aligning projects to employee interests or changing management styles based on individual employee motivators).

Build Disruption Resilience

- No organization is immune from disruption; legal leaders should spend more time building their talent pipeline and forward-hiring where possible.
- To combat the loss of institutional knowledge that comes with high turnover rates, legal departments will need to invest in better knowledge management capabilities and more learning and development for new staff.



Impacted Risk Areas

Legal Department Culture, Legal Department Efficiency, Attrition Risk

Significant Legal Attrition Risk

Action Steps

- Evaluate current level of engagement within the legal department.
- Conduct lawyer motivator assessments or develop individual motivator profiles to better understand employee interests and motivators, and align work accordingly.
- Work with partners in HR to determine how the department can better position its employee value proposition.
- Establish codified knowledge management practices to prevent departmental brain drain.
- Develop a sustainable talent pipeline by engaging with potential candidates before the need to fill an open position arises.

Key Risk Indicators

- Percentage of employees who report feeling engaged with their work
- Percentage of employees who report high levels of burnout
- Percentage of business partners satisfied with the support they receive from the legal department
- Year-over-year attrition rate for lawyers within the department

Questions for Key Stakeholders

Ask HR

- How can we reposition our employee value proposition to attract and retain the right talent?
- What resources are available to help employees experiencing burnout?

Ask assurance function heads

- How can we better align the work we do to employee interests (e.g., conduct a lawyer motivator assessment)?

Ask business partners

- Do you feel the current state of the legal department and its operations enable you to reach your desired outcomes?
- What legal work would you be willing to trade off for more support on strategic matters?

Appendix

Endnotes

Emergence of New Employee Value Proposition

- ¹ [Evolve Your EVP to a Human Deal by Offering Radical Flexibility](#).
- ² 2021 Gartner Human Deal Benchmarking Survey; n = 77 organizations.
- ³ Giving employees flexibility in not just when and where they work but also with whom, on what and how much employees work.
- ⁴ [Reinventing the Employee Value Proposition: The Human Deal](#).
- ⁵ [Preparing for a Legal and PR Crisis After Company Vaccine Mandates](#), Law.com. (Paid subscription required.)
- ⁶ 2021 Gartner Compliance Control Effectiveness Employee Survey.

New-in-Kind Employee Monitoring

- ¹ [Communications Campaigns for COVID-19 Vaccine and Testing Mandates](#).
- ² 2021 Gartner Leader and Development Disruption Survey.
- ³ [Employee Surveillance Software Demand Up 58% Since Pandemic Started](#), Top10VPN.
- ⁴ 2021 Gartner Leader and Development Disruption Survey.
- ⁵ [Employers Increased Employee Data Collection During Pandemic](#), SHRM.

Rise of Governmental Vaccine Directives

- ¹ [Executive Pulse: Employers Mandating Vaccines Increases Threefold After Biden Announcement](#).
- ² [Italy Rocked by Protests as Europe's Strictest Vaccine Mandate Comes Into Force](#), Forbes.
- ³ [Factbox: Countries Making COVID-19 Vaccines Mandatory](#), Reuters.
- ⁴ [COVID-19 Country Specific Information](#), U.S. Department of State.
- ⁵ [Biden Orders Shots for Millions, Calling Unvaccinated a Threat](#), Bloomberg.
- ⁶ As of November 2021.
- ⁷ [Will the Vaccine Mandate Affect the Labor Shortage?](#), The Wall Street Journal.

- ⁸ [Texas Gov. Greg Abbott Bans Coronavirus Vaccine Mandates, Including for Private Businesses](#), The Washington Post. (Paid subscription required.)

- ⁹ [From McDonald's to Goldman Sachs, Here Are the Companies Mandating Vaccines for All or Some Employees](#), NBC News.

- ¹⁰ Methodology Note: For May, June and July executives were asked "As COVID-19 vaccines become more widely available in the coming months, which of the following actions does your organization plan to take?" Those that responded that they would "require employees to get a vaccine before returning to the office" are included in the graph. For August, executives were asked "Now that the FDA has fully approved the Pfizer vaccine, what impact will that have on the likelihood of your organization implementing a vaccine mandate?" Those that responded "we already have a vaccine mandate in place" are included in the graph. For September, executives were asked "Is your organization anticipating instituting a vaccine mandate (in those jurisdictions where legally authorized)?" Those that responded "yes" are included in the graph.

Significant Legal Attrition Risk

- ¹ 2021 Gartner Corporate Lawyer Engagement Survey.
- ² [How to Quit Your Job in the Great Post-Pandemic Resignation Bloom](#), Bloomberg.
- ³ [Amid "The Great Resignation," More In-House Lawyers Are Moving to Law Firms](#), Law.com. (Paid subscription required.)
- ⁴ [Big Law Hiring Practices Bring Shortages as Client Demands Grow](#), Bloomberg Law.

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